IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2280 OF 2005
IN
FIRST APPEAL NO.803 OF 2005

Reshma Sikandar Hadkar ...Applicant
Vs.
Faiyaj Abdulganj Shaikh ...Respondent

Mrs. S.A. Mudbidri for the for the Applicant.
Shri S.S. Patwardhan for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 01, 2006.

P.C.:

1. Rule. The Respondent waives service. Taken up for hearing forthwith. The age of the minor child as of today is about eight years. For sufficiently long time the minor child is under the care and custody of the maternal grand-parents. The Trial Court by the impugned judgment and order has directed the Applicant to handover the custody of the minor child to the Respondent-father. Shri Patwardhan for the Respondent submitted that the Respondent-father is the only legal guardian who is entitled to custody. He submits that in any case the custody is not with the Applicant but the custody is with the grand-parents of the minor child.

2. Dispute regarding custody of a minor child

cannot be decided only on the basis of legal rights of the parties to the proceeding. The only paramount consideration is the welfare of the minor child. The child in this case is a female child. Present age of child is only about eight years. It is not in the interest of the child to disturb her custody at this age. However, permission will have to be granted to the Respondent-father to meet the child atleast once in a fortnight for the time being. The Applicant/Appellant will have to make proper arrangements for facilitating the Respondent to meet the child atleast for a period of three hours once in a fortnight. The arrangement will have to be worked out by mutual co-operation by the parties. However, in case of difficulty, both the parties are free to approach this court for necessary directions.

3. Civil Application is disposed of by passing following order:

(i) There will be interim relief in terms of prayer clause (b).

(ii) The Respondent will be entitled to meet the

minor child for period of three hours once in every fortnight. The Applicant will make necessary arrangements in that behalf.

(iii) In case proper opportunity is not made available to the Respondent to meet the minor child, he is free to apply to this court for appropriate directions.

(iv) It is made clear that in case of change of circumstances, the Respondent will be entitled to apply for vacating the interim relief granted.

(v) There will be no orders as to costs.

JUDGE